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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,889	03/04/2002	Natalie Rose Noel	NRN-001	6465

7590

03/26/2003

Dane C. Butzer  
681 Woodduck Ct.  
Columbus, OH 43215

EXAMINER

HALE, GLORIA M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/090,889

Applicant(s)  
Noel et al

Examiner  
Gloria Hale

Art Unit  
3765



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12, and 14-18 is/are rejected.
- 7) ☒ Claim(s) 4 and 13 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other: /

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## **DETAILED ACTION**

### ***Specification***

1. The use of the trademarks VELCRO and LYCRA has been noted in this application. **It should be capitalized wherever it appears and be accompanied by the generic terminology.**

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

2. Claims 6 and 15 are objected to because of the following informalities: The use of the trade name VELCRO in the claim may cause confusion since it only identifies a source of a material and not the material itself. It is recommended that generic terminology, such as hook and loop fastener be used instead of the trade name in the claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3,5-12 and 14-1 are rejected under 35 U.S.C. 102(b) as being anticipated by Corrado (US 5,098,331).

In regard to claims 1-3 and 6-9, Corrado discloses a restraint, a bra chest dressing (10) with a chest band (12) with a strap (54, as seen in figures 1 and 2 and described in col. 5, line 43 - col. 7, line 5) including the adjustable fastener (fastening means, 70 with overlapping surface sections) and with the strap being elastic including elastic portion (58). (See Corrado, col. 5, line 52- col. 6, line 26). The Corrado strap (54) is sized as claimed in claims 2 and 3 as best seen in Figures 1 and 2. The Corrado garment is considered a "sports bra" as broadly claimed in claim 9 since it is usable or wearable while participating in sports to support the wearer's breasts. The Corrado restraint and strap structure performs the method steps as claimed in claims 10-12 and 14-18 and as discussed above in regard to claims 1-3 and 5-9. (See Corrado, figures 1 and 2 and col. 5, line 43 - col. 7, line 5).

5. Claims 4 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited references disclose the strap as being wider as claimed.

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*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is (703) 308-1282.

  
Gloria Hale

Primary Patent examiner- AU 3765

March 22, 2003